

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**HONORATO MEJIA,  
CRUZ RANGEL and  
ADRIAN GARCIA,**

**PLAINTIFFS**

**Versus**

**Civil Action No. 1:10-cv-264LG-RHW**

**MASON PRO, INC.**

**DEFENDANT**

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**MOTION FOR ATTORNEYS' FEES AND OTHER RELATED  
NON-TAXABLE EXPENSES and SUPPORTING MEMORANDUM**

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COME NOW the Plaintiffs, HONORATO MEJIA, CRUZ RANGEL, and ADRIAN GARCIA (hereinafter referred to as the "PLAINTIFFS"), by and through their undersigned counsel, and respectfully move this Court for an award of attorneys' fees and other related non-taxable expenses, pursuant to Fed. R. Civ. P. 54(d)(2), to be paid by Defendant, MASON PRO, INC. (hereinafter referred to as the "DEFENDANT"), in the above entitled action, and in support hereof would show the following:

**A. INTRODUCTION**

1. PLAINTIFFS sued the DEFENDANT for the failure to pay wages and overtime wages pursuant to the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* ("FLSA"). (*See* "Complaint," Document No. 1).
2. The Court granted a Default Judgment/Order in favor of PLAINTIFFS, and the clerk entered the judgment on February 15, 2011. (*See* "Default Judgment/Order," Document No. 12)

**B. ARGUMENT**

3. To recover attorneys' fees, the party must be considered the prevailing party. The prevailing party is the party that succeeds on any significant issue in the litigation and the success provides some

benefit that had been sought by the party. *See Hensley v. Eckhart*, 461 U.S. 424, 433 (1983). In this case, PLAINTIFFS are the prevailing party because they have obtained the above-referenced default judgment.

4. Further, PLAINTIFFS are entitled to an award of attorneys' fees and other related non-taxable expenses because the underlying action is brought pursuant to the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* ("FLSA"). DEFENDANT has failed to appear and defend the action, and thus, a default judgment/order entered. Pursuant to FLSA 29 U.S.C. § 216(b), PLAINTIFFS, as the prevailing party, are entitled to, and hereby request, attorneys' fees and other related non-taxable expenses.
5. PLAINTIFFS seek Seven Thousand and No/100 Dollars (\$7,000.00) as fair and reasonable attorneys' fees and related non-taxable expenses, in accordance with the affidavits of counsel attached hereto as Exhibit "A-B." Ian L. Baker, Esq. spent approximately nineteen (19.7) hours on this matter and charged the prevailing rate of \$250.00 per hour. Danielle K. Brewer, Esq. spent approximately Eight and three-tenths (8.3) hours on this matter and charged the prevailing rate of \$250.00 per hour.
6. PLAINTIFFS are entitled to \$7,000.00 as attorneys' fees and \$100.00 as related non-taxable expenses under the "Employment Contracts," and "Non-Taxable Expense Report" attached hereto as Exhibits "C-D," and "E," respectively.
7. PLAINTIFFS do not request a hearing on this motion, as testimony on the matters set forth herein, was provided by PLAINTIFFS at the February 15, 2011 hearing on PLAINTIFFS' Motion for Default Judgment. That testimony, together with this motion and supporting affidavits, are believed to be sufficient to meet the requirements of Fed. R. Civ. P. 54(d)(2) and the Loadstar Factors. However, PLAINTIFFS will make themselves available for a hearing on this motion, at the Courts'

pleasure.

C. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs, HONORATO MEJIA, CRUZ RANGEL, and ADRIAN GARCIA, respectfully request that the Court, enter award them attorneys' fees in the amount of \$7,000.00, and non-taxable expenses in the amount of \$100.00, to be paid by the Defendant, Mason Pro., Inc. The PLAINTIFFS further requests any other relief the Court may deem appropriate.

Respectfully submitted this the 17<sup>th</sup> day of February, 2011.

HONORATO MEJIA, CRUZ RANGEL, and  
ADRIAN GARCIA, Plaintiffs

By: LoCOCO & LoCOCO, P.A.

/s/ Ian L. Baker

IAN L. BAKER, MS Bar # 102272

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**CERTIFICATE OF SERVICE**

I, Ian L. Baker, hereby certify that I have forwarded a copy of the foregoing via Certified U.S. Mail, Return Receipt Requested, and also electronically filed the Notice of Service for same with the Clerk of Court using the ECF system which sent notification of such filing to:

Attorney for Defendant Mason Pro, Inc.:  
Raymond J. Rotella, Esq.  
Kosto & Rotella, P.A.  
P.O. Box 113  
Orlando, FL 32802

Registered Agent for Service of Process - Mason Pro, Inc.:  
Christopher J. Atcachunas, Esq.  
840 N. Highland Ave.  
Orlando, FL 32803

Respectfully submitted, this the 17th day of February, 2011.

/s/ Ian L. Baker  
Ian L. Baker, MSB# 102272